

Remarks

Applicants have reviewed the Office Action mailed September 14, 2010. Claims 1-4, 6-10, 12, 14-24, and 30 are pending prior to entry of this amendment. By this amendment, claims 1-4, 6-8, 10, 16, and 30 are amended, claims 14, 15, and 17-24 are cancelled without prejudice or disclaimer of the subject matter therein, and new claims 31-44 are added. After entry of this amendment, claims 1-4, 6-10, 12, 16, and 30-44 will be pending in the application. Applicants respectfully submit the following remarks.

§101 Rejections

Claims 6-10 and 12 stand rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. Applicants respectfully traverse the rejection and submit that the amended claims are directed to statutory subject matter. Independent claim 6 is directed to a method that Applicants respectfully submit is a statutory process under § 101 at least because it is tied to a particular apparatus. For example, claim 6 includes the steps of storing multiple elements in a non-transitory computer readable medium. (See next paragraph for discussion on Applicants' intended meaning of "non-transitory.") In addition, claim 6 includes the step of abstracting audio feature data using a programmable process executing computer-executable instructions. Claim 10 includes similar limitations reciting a computer readable medium and programmable processor. Claim 10 is also statutory because it transforms data representing real-world acoustic signals into a different state or thing. For example, claim 10 includes the step of editing a second audio data stream to produce edited input second audio data with edited or transformed time-varying features. Accordingly, Applicants respectfully submit that claims 6-10 and 12 do not read on a process performed completely mentally, verbally, or without a machine, at least because they require a programmable processor, data cannot be stored in a computer readable medium without a machine, and/or they present transformative steps.

Claims 16-18, 22-24 and 30 stand rejected under § 101 as being directed to non-statutory subject matter. In particular, the Examiner states that a computer readable medium reads on a signal per se. Applicants respectfully traverse the rejection based on the amendments above specifying that the computer readable medium is a non-transitory computer readable medium. In

using the term “non-transitory”, Applicants are merely indicating that the computer readable medium is not a transitory signal per se. Applicants mean the term “non-transitory” to exclude signals per se, but to include other types of computer readable media such as internal or removable storage devices used within or in conjunction with a computer at run time and/or for longer term data retention, including volatile and/or non-volatile forms. As just a few non-limiting examples, a non-transitory computer readable medium can be any one of a number of memory devices normally included in or used with a computer. Such examples may include a CD ROM, a DVD ROM, a hard disk, RAM, and other such devices. See, for example, Applicants’ specification at p. 1, lines 25-33; p. 18, lines 29-32; and p. 31, lines 20-25. Applicants also note that claims 17, 18, and 22-24 have been cancelled.

Claims 1-4, 14-15 and 19-21 stand rejected under § 101 as being directed to non-statutory subject matter. In particular, the Examiner states that the claims read on a computer listing per se. Applicants respectfully traverse the rejection based on the amendments presented above. For example, amended claims 1-4 are directed to an audio and video data processor, or a data processing system, *comprising a non-transitory computer readable medium* having a number of elements thereon. Accordingly, Applicants submit the processor of claim 1 and the processing systems of claims 2-4 are directed to statutory subject matter, as discussed above. Applicants also note that claims 14-15 and 19-21 have been cancelled.

Accordingly, Applicants submit that the claims meet the requirements of § 101 and respectfully request the Examiner withdraw the rejections.

§112 Rejection

Claims 1, 2, 6 and 10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner objected to the use of the phrase “timing differences are substantially removed.” Applicants respectfully traverse the rejection and submit that the term “substantially removed” would be understood by one skilled in the art based on a reading of Applicants’ specification. However, Applicants have amended the claims to further advance prosecution and submit that the amended claims are definite. The amended

claims specifically provide that the edited input audio data has *acoustic features aligned with the acoustic features of said selected portion of said first audio data stream*. Accordingly, Applicants submit that the claims meet the requirements of § 112, second paragraph and respectfully request the Examiner withdraw the rejection.

§ 102, § 103 Rejections

Claims 14, 17, 19, and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Nakamura (US 7,424,204). Claims 15, 18, 20-21 and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakamura (US 7,424,204) in view of Coden et al. (US 6,816,858). Applicants note that claims 14, 15, and 17-24 are cancelled by the present amendment, thus rendering these rejections moot. Accordingly, Applicants respectfully request that the rejections be withdrawn.

Allowable Subject Matter

In the Office Action the Examiner stated that claims 1-4, 6-10, 12, 16 and 30 would be allowable if rewritten or amended to overcome the respective rejection(s) under § 101 and/or § 112, second paragraph. Applicants thank the Examiner for the determination of allowable subject matter and respectfully submit that claims 1-4, 6-10, 12, 16 and 30 are in condition for allowance at least for the reasons presented above.

New Claims

Applicants submit herewith new claims 31-44 to further define and claim embodiments of Applicants' invention. The new claims include several limitations in common with allowable claims 1-4, 6-10, 12, 16 and 30, and Applicants submit new claims 31-44 are patentable over the applied art for at least for the same reasons. In response to the Examiner's previous rejections under § 101 and/or § 112, second paragraph, Applicants respectfully submit that the new claims are directed to statutory subject matter and are definite at least for the reasons presented above. Accordingly, Applicants believe claims 31-44 to be in condition for allowance and respectfully request the Examiner allow the claims in due course.

Conclusion

Favorable consideration and prompt allowance of the application is respectfully requested. Applicant believes no fee is due to enter the present Amendment. The Commissioner is hereby authorized to charge any additional filing fees required to Deposit Account No. 061910. The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.

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